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HUMAN RIGHTS COMMITTEE

Sixty-third session

SUMMARY RECORD OF THE 1675th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 15 July 1998, at 10 a.m.

Chairperson: Ms. CHANET

later: Mr. BHAGWATI
(Vice-Chairperson)

later: Ms. CHANET
(Chairperson)

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GE.98-16900 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Initial report of Israel (CCPR/C/81/Add.13)

1. At the invitation of the Chairperson, Mr. Lamdan, Mr. Schoffman, Mr. Blass, Mr. Galilee and Mr. Bardenstein (Israel) took places at the Committee table.

2. The CHAIRPERSON said that, before inviting the delegation to introduce the report, she would like to thank Israel for Mr. Kretzmer, who had been a member of the Committee for four years and had made a particularly effective contribution to its work. He was an excellent jurist with a rigorous and precise mind, and the Committee greatly appreciated his collaboration.

3. She invited the delegation, when introducing its report, to comment on any developments since April 1998, the date of the report's submission. She pointed out that, in order to facilitate dialogue with the Committee, the questions contained in the list of issues (CCPR/C/81/Add.13) had been regrouped according to subject matter.

4. Mr. LAMDAN (Israel) said that his delegation was pleased to have the opportunity of presenting the report of Israel to the Committee. It looked forward to engaging in a constructive and professional dialogue without political overtones, and learning how to improve the country's human rights performance and to achieve more effectively the purposes of the Covenant.

5. Mr. Bhagwati, Vice-Chairman, took the chair.

6. Mr. SCHOFFMAN (Israel) said that the report (CCPR/C/81/Add.13) was the most extensive review of the status of human rights in Israel that had been prepared to date. It had been disseminated to some 130 non-governmental organizations (NGOs) in the country, to senior judges, to heads of ministries, and to contact persons in the ministries who had provided the information. Those contact persons comprised an interdepartmental network for the exchange of information on human rights, and it was planned to make that network part of a permanent apparatus for reporting on implementation of the various human rights instruments to which Israel was a party. Unfortunately, owing to time constraints, it had not proved possible to have the report translated into the Committee's other working languages.

7. Israel was celebrating its fiftieth anniversary that year, in parallel with the fiftieth anniversary of the Universal Declaration of Human Rights. Following the adoption by the General Assembly of the so-called "partition resolution", providing for the establishment of a Jewish State and an Arab State in Palestine, Israel had declared its independence on 14 May 1948. Had the Arab world also accepted that resolution, there would have been no need to address many of the issues covered in the report.

8. Israel was proud of being both a Jewish State and a democratic State and, given the obstacles confronting it, the free, open and vibrant society it had developed was no small accomplishment. War had been declared on Israel from the beginning of its existence, and armed attacks against it had continued, with the result that the legitimate quest by the Arab minority in the country for equal rights had been impeded.

9. Despite those difficulties, the human rights situation had improved significantly over the years, and a recent study had shown that some 86 per cent of Jews and 83 per cent of Arabs would rather be citizens of Israel than of any other country in the world. Life expectancy had risen, as had the level of education and health care, and infant mortality, notably among the Arab population, had decreased dramatically.

10. Israel had no written constitution, but protection of human rights was assured through the courts, particularly the Supreme Court, to which petitions could be brought by anyone regardless of citizenship, residency or other status. Because decisions by the Supreme Court were universally binding, petitions often resulted in wide-ranging changes in government policy in such areas as prison conditions or discrimination against women. Through that process a judicial bill of rights had gradually evolved. The judiciary was completely independent, and judges were chosen by a special committee on which politicians were in a minority.

11. The Attorney-General also played a unique role in the protection of human rights in Israel. His legal opinions were binding and, if he refused to defend a particular action or policy that was being challenged in court, the Government had no choice but to accept that position. A large number of human rights cases were solved by the Attorney-General calling for significant changes in government policy even before the cases reached the courts.

12. In 1992, the judicial bill of rights had been supplemented by basic laws on human freedom and dignity and on freedom of vocation. The Supreme Court had stated that it would interpret those laws as guaranteeing freedom of religion, freedom of expression and freedom of movement, as well as other basic rights, and as prohibiting any form of discrimination. Three further basic laws, concerning legal rights, freedom of expression, and social rights, were currently under consideration.

13. NGOs, which played a central role in protecting human rights in Israel, received the fullest encouragement and cooperation from the Government, although they were often quite open in their criticism of its policies.

14. Turning to recent developments in the field of legislation, he said that the Freedom of Information Act provided for the right of public access to internal departmental regulations and for the right to obtain information on request. It also provided that claims to trade secrecy should not prevent the release of environmental information. An authority for the advancement for the status of women had been set up, and a law had been passed prohibiting sexual harassment. Corporations whose stock was publicly traded were henceforth required to ensure that their boards of directors included at least one woman. Under a new law establishing equal rights for persons with disabilities, employers were required to practice non-discrimination and

affirmative action in regard to the disabled. Lastly, in connection with article 6 of the Covenant (the inherent right to life), a "Good Samaritan law" had been adopted under which assistance to persons in mortal danger was obligatory.

15. Israel would continue its efforts to ensure full civil and political rights to all its citizens. It had great hopes that the achievement of peace with the Palestinians and with neighbouring States would help solve many of the problems that still remained. Discussion in the Committee, as well as the ongoing dialogue with NGOs, should clarify issues and remove misunderstandings, thus helping to attain the Covenant's goals.

Final list of issues to be taken up in connection with the consideration of the initial report of Israel (CCPR/C/81/Add.13)

16. The CHAIRPERSON invited the delegation of Israel to reply to the questions in paragraphs 1 to 10 of the list of issues.

17. Mr. SCHOFFMAN (Israel) said that his delegation had received the draft list of issues just before leaving Israel, and the final version only the previous day. Although, it had done its best to obtain the information asked for, it was unable to provide certain data due to the limited amount of time available.

18. One of the main aims of the Middle East peace process was the achievement of self-determination for all the peoples of the region, including the Palestinians. Under the 1978 Camp David Accords, Israel had recognized the concept of determination by the Palestinian people of its own future. At the 1991 Madrid Conference, efforts had been made to achieve a just, lasting and comprehensive peace settlement through negotiations on both interim self-government and permanent status. Those negotiations had led to the signing in 1993 of the Israeli-Palestinian Declaration of Principles on Interim Self-Government Arrangements, under which both parties had agreed to recognize "mutual legitimate political rights". That formulation had become part and parcel of the 1995 Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip. The next stage of the process was to be negotiations between the parties on the permanent status of the area.

19. External self-determination was taking place through a political process agreed to by the Palestinians and widely supported by the international community. Internal self-determination was already being practised: Palestinians in the West Bank and Gaza Strip, as well as those living in Jerusalem, had taken part in democratic elections under international supervision. As a result, they had their own freely-elected administration, governing all spheres of civil life, with no interference by Israel.

20. The question of how the policy of settlement was consistent with the policy of self-determination was among the issues still to be negotiated in the final stages of the Oslo process. It formed part of external self-determination, which would presumably lead to an acceptable outcome in due course.

21. On the matter of application of the Covenant (paragraph 2), the Legal Adviser to the Ministry of Foreign Affairs had, in a written reply, noted that the interpretation of article 2, paragraph 1, of the Covenant, under which States parties undertook to ensure rights to all individuals "within its territory and subject to its jurisdiction", had been exhaustively discussed by a number of eminent legal authorities. The central question which had faced Israel in preparing its report to the Committee was whether individuals resident in the occupied territories were indeed subject to Israel's jurisdiction. In the Cyprus v. Turkey case, the European Commission of Human Rights had equated the concept of jurisdiction with actual authority and responsibility in terms of civil or military control over the territory.

22. The problem became even more involved when consideration moved from the abstract question of jurisdiction and control to the more practical question of the actual extent of responsibilities for actions taken within a territory itself. One issue was the applicability in that territory of the norms and principles of international law pursuant to the Hague and Geneva Conventions, which covered situations involving foreign occupation within the general framework of a state of hostilities. The question thus arose to what extent such norms and principles were compatible with the provisions of the Covenant, which had been developed in the context of a normal relationship between State, Government, citizens and internal population.

23. Humanitarian law in armed conflicts had to be distinguished from human rights law. Under human rights regimes, the purpose was to protect the individual from loss of life and liberty and from cruel treatment or oppression by the State, inflicted on him either as a citizen or as a person temporally subject to the jurisdiction of the State in question. Humanitarian law in armed conflicts, on the other hand, was designed to balance the needs of humanity against the nature of warfare. His Government believed that the latter situation was much more pertinent to the case of the occupied territories.

24. Under the Middle East political process, which consisted of a series of agreements still in the course of implementation, Israel had transferred power over and responsibility for more than 90 per cent of the population of the West Bank and Gaza Strip to a Palestinian autonomous authority. The Palestinian Authority had a duty to exercise its powers in a manner consistent with internationally accepted norms and it would be inappropriate for Israel to include in its report information on, for instance, respect for freedom of religion or freedom of the press in the areas concerned, since it did not have the proper authority to do so.

25. According to the Interim Agreement and pending completion of the negotiating process, Israel still had certain powers and responsibilities that had not yet been transferred to the Palestinian Authority. Those included external and, to some extent, internal security and public order. In the exercise of those responsibilities, Israel remained committed to upholding the relevant norms and principles of human rights as set down in humanitarian law. The peace process was a dynamic one, and the territorial scope of autonomy was continually changing. Negotiations were currently under way on additional territory to be transferred in the forthcoming weeks to Palestinian jurisdiction and control.

26. In its transfer of powers to the Palestinian Authority, Israel was very much aware of the need to incorporate the human rights dimension. Those concerns were addressed specifically in article 19, entitled "Human rights and the rule of law", of the Interim Agreement on the West Bank and Gaza Strip. The clear and open reciprocal commitment in that provision would, it was hoped, ensure that human rights protection was maintained during the difficult interim period pending the achievement of an overall settlement.

27. Although Israel took the position that the Covenant and similar instruments did not apply directly to the current situation in the occupied territories, it would share with the Committee any information it had that might shed light on specific matters. In reply to the question on Southern Lebanon in paragraph 2, and conveying the views of the Legal Adviser to the Ministry of Foreign Affairs, he said that Israel had constantly maintained that the Southern Lebanese Army exercised independent responsibility for actions in that territory. The only activities conducted by the Israeli army in Southern Lebanon were measures of self-defence.

28. Turning to the question on equality and non-discrimination, he acknowledged that the Arab minority had suffered the consequences of the Israeli-Arab conflict in terms of obstacles to complete equality. Arabs were not conscripted for military service, though such service was often the springboard for subsequent employment in both the public and private sector. The Arab population had not asked to perform military service, however, and had in fact joined with the ultra-Orthodox population to block the passage of a law requiring a wider range of conscription.

29. Efforts were being made to limit the linkage between army service and the enjoyment of certain rights, such as benefits from national insurance institutes and social welfare institutions and rights to housing. Although it was both a criminal offence and a civil tort to discriminate against a person on the basis of race, religion or national origin, prior army service was still a decisive factor in the recruitment of staff in both the private and public sectors. Another factor was the security clearance required for some jobs, which was easier to obtain after military service. Under a bill currently before the Knesset, an appeals procedure would be instituted for people denied security clearance.

30. Despite such obstacles, employment of Arabs in the public sector was rising. Affirmative action and quotas to reserve certain positions for Arab applicants had been instituted within the civil service. The intention was to accustom people in the public sector to working with Arabs and thereby to promote the recruitment of Arabs. A number of Arabs had recently been appointed to the diplomatic service, and the number of Arab judges was on the rise. Between early 1994 and May 1998, the number of Arabs employed in the civil service had increased by 80 per cent.

31. Owing to many years of neglect of the Arab sector, there were wide educational gaps between Arabs and Jews, but they were closing. Allocations to the educational sector had risen dramatically in recent years. From 1960 to 1995, the proportion of Jewish students matriculating had jumped

from 11 per cent to 44 per cent, while the percentage of Arab students had risen from 1.9 to 19. That tenfold increase in Arab matriculation was not nearly enough, but it did represent an improvement.

32. Responding to the question on equality for Arab women, he said that no governmental policies were specifically geared to them. Training programmes, especially those for teachers, had had an impact on Arab women, particularly Bedouin women, and Arab women could benefit from affirmative action programmes for women and for Arabs in the public sector. There were some Arab women judges, but the political parties which the Arabs generally supported had yet to put forward women candidates.

33. Regarding discrimination against Arabs in the provision of goods, services and accommodation, he said he was not aware of any statistics on such discrimination. In many years of work for a civil rights organization, he had not seen a single complaint lodged against a hotel for refusing to give a room to an Arab. One complaint that had resulted in the award of compensation had involved admittance to a water park. Car rentals, too, had been the subject of complaints. In general, however, Jews and Arabs circulated freely and intermingled in hotels, restaurants and recreational facilities.

34. In the private sector, discrimination was explicitly prohibited in employment and higher education. The law governing restaurants, hotels and other facilities stated that services could not be denied on an unreasonable basis. The law on the provision of certain goods and services contained a similar clause. Israeli case law clearly demonstrated that denial of access on grounds of race, religion or sex constituted an unreasonable basis for denial. In such instances, the person had recourse before the courts. Several lower courts had held that there was a direct right of action using the Basic Law on Human Dignity and Liberty. The Supreme Court had ruled that that Law applied to both the Government and the private sector, and judges had applied it in a number of specific cases involving discrimination.

35. As to whether refusal to sell or lease land to Arabs was considered unlawful discrimination, he said there was a general prohibition against discrimination by the Government, so the question really applied to the private sector. There was no law on housing discrimination. The real estate market consisted primarily not of large-scale rentals of housing complexes, but of sales or rentals of their own property by individuals, who were entirely free to choose tenants or buyers.

36. The next question concerned the Bedouin, whose situation was the product of many years of neglect. The issue was being dealt with in different ways in the north and the south of the country. In the north, it had been decided to accord municipal status to eight settlements that had previously been considered illegal. There were 43 new town-planning schemes under preparation to allow for legal construction of housing in Arab villages. Under a special statute in effect for just over two years, 4,000 illegally built houses had been linked to the electrical grid. The tremendous impetus to change the situation in the north could be attributed to a major NGO, which had brought the issue of unrecognized villages to national prominence.

37. The situation was different in the south, where the Government had attempted to encourage the Bedouin, who were scattered over a very wide geographical area, to congregate in seven towns to facilitate the provision of municipal services. About half of the Bedouin had in fact moved. On 5 May 1998, the National Planning Council had approved a master plan for Bedouin housing in the south which referred to recognition of three or four new settlements. In the interim, an agreement had been reached on the provision of health services in the unrecognized villages. The Ministry of Education was organizing classes there, even though the buildings in which they were held were illegal. An effort was being made to ensure that those schools had access to adequate services in respect of water, electricity etc. All the unrecognized settlements in the north were situated within the purview of regional authorities, while in the south such settlements were generally outside the scope of the local authorities. The information and statistics on the Bedouin population in paragraphs 853 to 858 of the report were the most recent available.

38. Although Hebrew and Arabic were both official languages in Israel, it could not be said that they were on an equal footing. Hebrew was the mother tongue of 80 per cent of the population. The vast majority of Arabs were fluent in Hebrew. Some 75 per cent of all adult Arabs read a Hebrew newspaper at least once a week; the Hebrew press was the primary source of written information for the Arab community, even though there were a great many newspapers in Arabic. All Arab children learned Hebrew from their first year of schooling; increasing numbers of Jewish children were learning Arabic.

39. Hebrew was the primary language of government, commerce and higher education. Even though Arab members of the Knesset were entitled to speak Arabic in plenary meetings, they almost always chose to speak in Hebrew. The official use of Arabic was increasing, however. Rec services, civil service job offerings, inserts in pharmaceutical products, warning labels ent regulations required the publication in Arabic of tenders for goods and, machine labels and civil defence notices, inter alia. Following a petition to a high court by an NGO concerned with the legal rights of the Arab minority, the Public Works Department had agreed that all new road signs would be in Arabic as well as Hebrew.

40. Given that Hebrew was the dominant language, it was not surprising that a minimal knowledge of that language was a precondition for naturalization. Fluency or even a working knowledge of Hebrew was not required, however, and even the requirement of some knowledge of Hebrew could be waived for the spouse of an Israeli citizen. To his knowledge, the only instance in which knowledge of Arabic was required was for licences for bus drivers.

41. The Israel Broadcast Authority had a radio channel that broadcast for more than 18 hours a day in Arabic. Private radio stations were a relatively new phenomenon in Israel, but some were already broadcasting in Arabic. Much broadcasting was in neither Hebrew nor Arabic, but in English, many of the programmes having both Hebrew and Arabic subtitles.

42. Non-Jewish religious services were severely underfunded. About 10 per cent of the section in the budget of the Ministry of Religious Affairs earmarked for religious services went to non-Jewish religious

services. Jewish religious services were provided through religious councils that received 60 per cent of their funding from the local government and 40 per cent from the central Government. Since no religious councils existed in the Muslim or Christian sectors, the funding channelled through religious councils was unavailable to those sectors of the population. Salaries for the Muslim clergy were funded by the Government, and large investments were being made in the Christian holy places with a view to the expected influx of pilgrims in the year 2000.

43. The largest component in the budget of the Ministry for Religious Affairs was the funding of yeshivoth, institutions of higher religious learning in which students studied full time and were prohibited from working elsewhere. Two Muslim religious seminaries had recently been established, but they had not requested funding as institutions of higher religious learning, perhaps because they were funded as educational institutions by the Ministry of Education.

44. So far as the funding of non-Orthodox religious communities was concerned, it should be noted that the proportion of families belonging to the Reform, Conservative and Reconstructionist movements of Judaism in Israel was relatively very small. Those movements did, however, receive a certain amount of funding as a result of a court action taken by them in the face of resistance on the part of the Orthodox religious establishment.

45. Ms. Chanet resumed the Chair.

46. Mr. BARDENSTEIN (Israel) said that, since 1993, both sexes had to be represented on the Committee responsible for making appointments in the public sector. Since 1996, a new unit within the Civil Service Commission had assumed responsibility for promoting the hiring and advancement of women in the civil service, especially in senior positions. Specific quotas had been established in a number of government departments and agencies. The new unit's activities included ongoing periodic statistical studies which facilitated the work of the steering committee supervising the implementation of affirmative action legislation. A special committee had been set up to examine the wage gaps between men and women within the civil service. Wide-ranging information and training programmes specifically designed for persons responsible for the promotion of women were being implemented.

47. Over the past year, the unit had handled 100 complaints from women in the civil service, including 20 complaints of sexual harassment. It was currently engaged in developing new policies designed to ease the employment of single mothers in the civil service. In June 1997, women had accounted for 47 per cent of civil servants in the top seven grades and 39 per cent in the top three grades, a significant increase compared with the 1993 level of only 23 per cent of women in the top three grades. Mention should be made of a recent decision to admit women to courses for ship's captains in the Israeli navy. As for religious institutions, women were currently being accredited as pleaders in rabbinical courts, a post previously open to men only, and appropriate training courses had been inaugurated.

48. Mr. SCHOFFMAN (Israel) said that the question in paragraph 8 clearly arose from a misapprehension, since Israeli nationality could be transmitted by either the mother or the father.

49. As for the reservations to the Covenant entered by Israel, one of them related to the state of emergency and would be withdrawn once the emergency passed. The second reservation related to personal status under the religious laws, and he could not tell when and if it would be withdrawn. The issue was a fundamental one and a change in domestic law would be required before the reservation was withdrawn.

50. Israel had been living under a state of emergency since its inception and, despite the peace achieved with some of its neighbours over the past two decades, the situation was still tense in many respects. Terrorism, in particular, represented a threat not only to human life but also to Israel's efforts to seek peace with the Palestinians and with the neighbouring States. Terrorist attacks, whether by Palestinians or by extremist Jews, had the potential of setting the whole region ablaze. The emergency regulations were commensurate with a state of emergency that was all too real. Police searches and other invasions of privacy were accepted by the public as a necessity.

51. In all cases, the decision to search an individual was taken on the basis of his or her behaviour rather than of religious or other ideas. All emergency regulations were subject to judicial review and, as explained in paragraph 111 of the report (CCPR/C/81/Add.13), were by no means unlimited. They could be overturned if found to be ultra vires.

52. Many emergency regulations related to matters not covered by the Covenant; for example, during the Gulf War there had been a need for immediate legislation to ensure the rights of people who could not reach their place of work and to restrict the right of employers to dismiss them. Under the emergency regulations, that could be done without going to the Knesset.

53. There were currently no Israeli citizens or residents in administrative detention, although some orders limiting the movements of Israeli Jews and Lebanese nationals were in force. Detainees had to be brought before a court within 48 hours of arrest, and every administrative detention order had to be approved by the court. A newspaper could be shut down only if there was evidence that it was controlled by a terrorist organization. The question whether the provisions of the emergency regulations depended for their efficacy on the declaration of a state of emergency was a very interesting one: the precise status of the emergency regulations had not yet been examined in court for the simple reason that the emergency was not yet over.

54. The CHAIRPERSON invited the members of the Committee to address to the Israeli delegation any additional questions they might have concerning paragraphs 1 to 10 of the list of issues.

55. Mr. EL SHAFEI commented, with regard to the form and content of Israel's initial report (CCPR/C/81/Add.13), that it incorporated a great deal of information that might more appropriately have appeared in a core document but failed to provide any information on the situation in the occupied territories

under Israel's jurisdiction. In that respect, the report failed to comply with the Committee's guidelines, and additional information was required in the light of article 2, paragraph 1, of the Covenant.

56. With regard to the right of self-determination set forth in article 1 of the Covenant, he noted that, according to paragraph 36 of the report, Israel's recognition of the universal right to self-determination was embodied in its Declaration of Independence. In paragraph 6 of its General Comment 12, the Committee expressed the view that paragraph 3 of article 1 was particularly important in that it imposed specific obligations on States parties not only in relation to their own peoples but vis-à-vis all peoples which had not been able to exercise, or had been deprived of the possibility of exercising, their right to self-determination.

57. From the answers provided by Mr. Schoffman, it was evident that self-determination was among the issues to be determined at the last stage of the peace negotiations process between the Government of Israel and the Palestinian Authority. No mention had been made of the measures adopted by the Israeli authorities during the long period of occupation to change the territorial and demographic nature of parts of the occupied territories, such as the establishment of Jewish settlements, which certainly amounted to a violation of the Fourth Geneva Convention and of article 1 of the Covenant. In that connection, he referred to statements made by Israeli officials denying the Palestinians the right to establish their own national State and threatening retaliation at all levels if they attempted to do so, including the reoccupation of the territories transferred to the Palestinian Authority.

58. Mr. ZAKHIA, having endorsed Mr. El Shafei's remarks concerning article 1 of the Covenant, said that it was the responsibility of the political authorities of the State of Israel to determine the laws governing nationality and, in particular, the law of return. He found it difficult to understand how a State could grant nationality rights to Jews whose ancestors had never set foot in Israel while, at the same time, refusing the right of native Palestinians to acquire Palestinian nationality.

59. In connection with paragraph 2 of article 1, he said that confiscations of land and water by the Israeli authorities surely amounted to depriving a people of its own means of subsistence. The continuing colonization of the occupied territories by Jewish settlers also represented a very serious violation of article 1, and one which threatened the peace process between the Israeli and Palestinian peoples.

60. Mr. YALDEN said that the report of Israel was a very thorough one. Indeed, given the little time the members of the Committee had had to study it, it might even be described as intimidating, the more so as many of the documents and legislative texts referred to were not available to them. Faced with a truly bewildering number of agencies, institutions, regulations and provisions in law and custom, he intended to concentrate on the issue of equality and non-discrimination and on the manner in which legal provisions relating to those principles were implemented and monitored in the Israeli system.

61. According to paragraph 833 of the report, the fact that very few Arabs performed military service laid them open to discrimination in employment although military experience was rarely a bona fide requirement for the jobs they were seeking. Employers who inquired about military service were therefore guilty of "adverse effect discrimination".

62. The report acknowledged that minorities were vastly under-represented in public service posts despite strenuous efforts to remedy the situation. The 80 per cent increase - from 1,369 to 2,476 - over a four-year period in the number of minority employees in such posts appeared considerably less impressive when compared with the total number of civilian public service employees: over 80,000. Moreover, no information had been given about the proportion of minority employees occupying senior positions.

63. The delegation stated it was unaware of any cases of discrimination in the provision of goods, services and accommodation in the private sector, but the Committee had received reports of considerable discrimination from human rights groups and NGOs and would appreciate further information based on a more detailed analysis of the situation.

64. Although Arabic was an official language of the State of Israel, it seemed to be not quite so official as Hebrew. Having served as Language Ombudsman in Canada, he was familiar with the issues involved and was troubled by the argument that Hebrew tended to be the language that everybody used and that even the average Arab read a Hebrew newspaper once a week. If a language was official, it must enjoy equal status in all matters of public business. He found it odd, for example, that naturalization required a knowledge of Hebrew and that a knowledge of Arabic was not sufficient. There would certainly be an outcry in Canada if a knowledge of French was deemed insufficient for naturalization.

65. He noted that Arabic schooling came under the authority of the Jewish education system. In countries with minority language populations, it was generally considered to be of paramount importance that the minority communities should control the administration of their own schools. He would like to know whether Israel was intending to move in that direction.

66. The delegation had quoted some impressive figures regarding the increase in the proportion of women in the higher echelons of the public service. However, he judged from the report that improvements continued to be necessary in other areas, such as the pay differentials between men and women, and representation of women in very senior positions in public life in general and in the Knesset in particular.

67. He asked whether there was any independent machinery to monitor compliance with the various legislative requirements regarding non-discrimination. According to paragraph 29 of the report, the State Comptroller had been fulfilling the function of Public Complaints Commissioner (ombudsman) since 1971 but no details of his jurisdiction or of the kinds of complaints he had dealt with had been provided. A bewildering variety of monitoring and control agencies were mentioned in the report but virtually all of them seemed to be government-operated. Was the Civil Service Commission an

independent body? Was there any independent authority with jurisdiction in the area of human rights to which members of the general public could apply for redress?

68. Mr. KLEIN said he welcomed the opportunity to open a dialogue with Israel, on the basis of the frank and lengthy initial report, but regretted that it had not been submitted more promptly.

69. The international responsibility of a State for its acts extended to all territories and persons subject to its jurisdiction or authority, whether such authority was exercised legally or illegally from the standpoint of public international law or domestic law. The Israeli delegation had referred to a decision by the European Commission of Human Rights in the Cyprus v. Turkey case but he wished to draw attention to the Advisory Opinion of the International Court of Justice of 21 June 1971 on the legal consequences for States of the continued presence of South Africa in Namibia notwithstanding Security Council resolution 276 (1970).

70. The Court had found that South Africa, by occupying the Territory without title, incurred international responsibilities arising from a continuing violation of an international obligation and remained accountable for any violations of the rights of the people of Namibia. On the basis of that generally accepted view, Israel must comply with its obligations under general public international law in the occupied territories, particularly with respect to the fundamental human rights recognized as non-derogable even in states of emergency, for example the prohibition of torture and inhuman treatment, respect for human dignity in places of detention and elsewhere, and the prohibition of racial discrimination.

71. The words "within its territory and subject to its jurisdiction" in article 2, paragraph 1, of the Covenant could be interpreted objectively or from the point of view of the State party. Israel's position in that regard was somewhat ambiguous. The delegation had drawn attention to the ongoing peace process but the Government of Israel seemed determined to hold on to parts of the occupied territories. The continued construction of settlements perpetuated the ambiguous legal and political situation. In those circumstances, the burden of proving the argument that the Covenant did not apply in the occupied territories remained with Israel and he invited the delegation to revert to the matter later in the dialogue.

72. With regard to paragraph 8 of the list of issues, the misapprehension referred to by the delegation probably arose from the matrilineal determination of a person's status as a Jew, which had implications for the acquisition of nationality.

73. Mr. ANDO, having expressed the hope that Israel would be more punctual in submitting its next report, said that the Legal Advisor to the Israeli Ministry of Foreign Affairs argued that the Covenant applied in Israel proper and that the international humanitarian law governing armed conflicts applied in the occupied territories. He further argued that, in the latter case, a balance must be struck between military necessity and the protection of the rights of the inhabitants.

74. The humanitarian law applicable in those circumstances included the 1899 Hague Convention, as revised by the 1907 Hague Convention, the Fourth Geneva Convention of 1949 and Additional Protocol I to the Geneva Conventions. Those instruments established a basic code of conduct for an occupying Power, including respect for private property, prohibition of the collection of military information from the inhabitants, and retention, as far as possible, of the existing legal regime. Mr. Zakhia and Mr. El Shafei had drawn attention to some unacceptable measures relating, for example, to land ownership and access to water in the occupied territories. Additional Protocol I to the Geneva Conventions specifically required the occupying Power to secure the means of subsistence of the civilian population.

75. In the circumstances, he would like to know what kind of system existed to determine whether a particular measure adopted in the occupied territories was a violation of the principles of the humanitarian law governing armed conflicts and whether there was any mechanism whereby the victims of violations could obtain redress under the military occupation. As the occupation had continued for several decades and was becoming semi-permanent, it would appear that the difference between fundamental human rights law and humanitarian law was becoming less and less relevant. He would be grateful, therefore, if the delegation could specify the differences between the two legal systems and the practical implications of those differences in the occupied territories.

76. Ms. EVATT associated herself with the remarks by Mr. El Shafei and Mr. Klein regarding the application of the Covenant in the occupied territories. The Supreme Court exercised jurisdiction over the security forces operating in the occupied territories, not least in respect of compensation claims. The security forces effectively controlled all traffic in and out of those areas. Israeli citizens resident in the occupied territories enjoyed the same rights and freedoms as their fellow citizens in Israel proper while the freedom of movement of Palestinian residents was restricted and the planning and zoning laws operated by the authorities made it difficult for them to acquire building permits. Consequently, it was clear that Israel exercised de facto jurisdiction and did so in a way that seemed to discriminate between Israeli citizens and others.

77. Turning to the question of land and housing in Israel proper, she noted that 93 per cent of all land was managed by the Israeli Land Administration and that 10 per cent of that land was administered by the Jewish National Fund, which refused to lease land to Arabs. The Council of the Israeli Land Administration had no Arab member but the Jewish National Fund accounted for 50 per cent of its membership. She would like to know, therefore, whether it was true that the Jewish National Fund provided Jewish citizens with land for settlement but did not provide land on equal terms to Arabs. She understood that a case relating to discrimination in respect of land administration had recently been brought before the courts and asked whether there had been any outcome.

78. The delegation of Israel had not fully answered the question in paragraph 4 of the list of issues concerning recognized and unrecognized Bedouin settlements. According to the report, there were about 100 settlements with 50,000 inhabitants but the Committee would like to know more

about their size and how long they had existed. Some were apparently larger than Jewish settlements in the Negev region. The recognized settlements referred to in the report were presumably State-initiated settlements rather than Bedouin villages. She asked the delegation to identify them. Many unrecognized Bedouin settlements were apparently being deprived of services and facilities that were provided to Jewish settlements of comparable size. Was it true that people living in unrecognized villages had no opportunity to vote in local elections because there were no established authorities?

79. Mr. SCHEINEN, referring to the territorial application of the Covenant, drew attention to the Committee's early case law in connection with Uruguay. In a number of cases concerning that State party, it had taken the strict position that acts conducted by State authorities on foreign territory fell within the scope of the Covenant. In that connection, he referred to the phenomenon of extrajudicial executions allegedly undertaken by Israel on foreign territory. Some of those incidents had occurred after Israel's ratification of the Covenant: an incident in Malta in 1995, one in Gaza in 1996 and a failed assassination attempt in Jordan in September 1997. He wished to know whether Israel accepted responsibility for those incidents and whether there was any justification under the Covenant for such action. In any case, there could be no doubt that every State party was accountable for its direct action anywhere in the world.

80. Article 2, paragraph 1, of the Covenant referred to the duty to "respect and ensure" that the rights recognized in the Covenant were enforced and some authors held that there were actually three duties: to respect, ensure and promote the rights in question. While a portion of those duties might have been transferred to the Palestinian Authority, Israel continued to bear responsibility for the direct action of its civil or military authorities in the territories concerned. He therefore put it to the delegation that Israel was responsible under article 40 of the Covenant to report on all such action in the occupied territories.

81. It was imperative that reporting by Israel and monitoring by the Committee should continue regardless of any changes in respect of sovereignty. He wondered, therefore, whether the Government of Israel was willing to agree to an arrangement whereby the Committee would receive a report, possibly a supplement to the country report, on the situation in the occupied territories.

82. He had taken note of the argument by the Legal Advisor to the Israeli Ministry of Foreign Affairs concerning humanitarian law but wished to point out that article 4 of the Covenant made it quite clear that human rights law continued to apply even in states of emergency.

The meeting rose at 1 p.m.